

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

TITUS DIXON,

Plaintiff,

v.

Case No: 6:18-cv-1376-GAP-DCI

RUSS GIBSON,

Defendant.

REPORT AND RECOMMENDATION

This cause comes before the Court for consideration with oral argument on the following motion:

MOTION: Defendant/Appellee's Renewed Motion for Costs and Expenses (Doc. 65)

FILED: March 1, 2021

THEREON it is RECOMMENDED that the motion be GRANTED.

On March 11, 2020, the Court entered summary judgment in favor of Defendant. Doc. 55. On April 9, 2020, Plaintiff filed a Notice of Appeal. Doc. 59. Thereafter, on March 26, 2020, Defendant filed a motion for costs and expenses. Doc. 58. On May 22, 2020, the Court denied that motion as premature given the then-pending appeal. On February 8, 2021, the United States Court of Appeals for the Eleventh Circuit affirmed the District Court's judgment in favor of Defendant. Doc. 64. On March 1, 2021, Defendant filed the Renewed Motion for Costs and Expenses that is now before the undersigned for consideration. Doc. 65 (the Motion).

In the Motion, Defendant requests \$2,473.54 in costs pursuant to Federal Rule of Civil Procedure 54(d) and 28 U.S.C. § 1920. *Id.* The Local Rule 3.01(g) certification states as follows:

Pursuant to Rule 3.01(g), Local Rules for the Middle District of Florida, undersigned counsel has conferred with opposing counsel in good faith effort to resolve by agreement the instant Motion. Counsel for Plaintiff has stated he takes no position regarding the motion and reserves the right to challenge any attempt to collect.

Id. at 9.

On March 9, 2021, the Court held a hearing on the Motion. Plaintiff's counsel did not appear at the hearing; Defendant's counsel represented that she had spoke to Plaintiff's counsel, who told her that he had a conflict with the hearing but did not oppose the Motion.

Thus, there is no statement of opposition in the certification section of the Motion, it appears that Plaintiff's counsel affirmatively told Defendant's counsel he does not oppose the Motion, and Plaintiff's counsel did not appear at the hearing. In light of the foregoing, the undersigned finds that the Motion is due to be granted as unopposed.

Accordingly, it is respectfully **RECOMMENDED** that the Motion (Doc. 65) be **GRANTED** such that Defendant is awarded costs in the amount of \$2,473.54.

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

Recommended in Orlando, Florida on March 9, 2021.



DANIEL C. IRICK
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge
Counsel of Record
Unrepresented Party
Courtroom Deputy